

EXHIBIT 4

Dominguez, George 9-12-00.txt

1

1 SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF SAN FRANCISCO
2 - - -
3 SOUTH TAHOE PUBLIC UTILITY : NO. 999128
DISTRICT; :
4 Plaintiff, :
5 vs. :
6 ATLANTIC RICHFIELD COMPANY :
("ARCO"); ARCO CHEMICAL :
7 COMPANY; SHELL OIL COMPANY; :
et al., :
Defendants. :
8 - - - - -
9 COMMUNITIES FOR A BETTER : NO. 997013
ENVIRONMENT, a California :
10 Non-Profit Corporation, on :
behalf of the General Public, :
11 Plaintiff, :
12 vs. :
13 UNOCAL CORPORATION, a :
Delaware corporation, et al., :
14 Defendant. :
15 - - -

September 12, 2000

- - -

17 Videotape deposition of
18 GEORGE DOMINGUEZ, held at the Centennial
Inn, 5 Spring Lane, Farmington,
19 Connecticut 06032 commencing at 9:33
a.m., on the above date, before Margaret
20 Peoples, a Federally Approved Certified
Professional Reporter and Notary Public
21 of the Commonwealth of Pennsylvania.

22 - - -
23 ESQUIRE DEPOSITION SERVICES
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24 1880 John F. Kennedy Boulevard
Philadelphia, Pennsylvania 19103
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2

1 A P P E A R A N C E S :
2
3 COOPER & SCULLY, P.C.
BY: SCOTT SUMMY, ESQUIRE
4 900 Jackson Street
Suite 100
5 Dallas, Texas 75201
(214) 712-9500
6 Counsel for the Plaintiff

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3 A. Yes.
4 Q. Describe those.
5 A. I was assigned by SOCMA to
6 be a staff representative for OFA,
7 provide staff support services to OFA.
8 Q. And how would you do that?
9 A. Convene meetings, provide
10 minutes of meetings, make arrangements
11 for any discussions that the members
12 might wish to have with either our
13 internal support staff or any external
14 support, provide a newsletter for the
15 association members, and assist in the
16 recruitment of new members.
17 Q. At that time did you have to
18 be a member of SOCMA to be able to be a
19 member of OFA?
20 A. Do you mean by that the
21 member companies of OFA?
22 Q. Right. Yes.
23 A. No, they did not.
24 Q. So as a company you could be
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1 a member of OFA and not be a member of
2 SOCMA?
3 A. Yes.
4 Q. What type of companies back
5 in 1984 were members of OFA?
6 A. Producers of fuel oxygenates
7 and users of fuel oxygenates.
8 Q. Back in 1984 when you joined
9 SOCMA, were major oil and gas companies
10 members of OFA?
11 A. Some as members of OFA.
12 Q. At some point in time while
13 serving as a staff representative with
14 the OFA, did the OFA become interested in
15 a chemical by the name of MTBE,
16 Methyl-Tertiary Butyl Ether?
17 A. Yes, they did.
18 Q. Do you recall approximately
19 when that was?
20 A. That would have been
21 basically from the 1985/1986 period.
22 Q. What is your first
23 recollection of monitoring MTBE as a
24 staff representative with OFA?
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1 A. I'm not sure I understand
2 the question. What does monitoring mean
3 in that context?
4 Q. As a staff representative,
5 keeping up with a topic of interest to
6 your members.
7 A. Definitely from '84/'85
8 onwards because we were interested in all
9 oxygenates. So perhaps I should clarify
10 and say as a staff representative, we
11 were interested in all oxygenates.
12 Q. I'm going to come back to
13 that. Let me ask you a few more

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1 chemicals?
2 A. No, I don't.
3 Q. Do you recall any member of
4 OFA ever informing you of that fact?
5 A. No. I recall discussions
6 about MTBE, but not differential
7 solubility.
8 Q. Back in the 1984/'85 time
9 frame when you were a staff
10 representative at OFA, do you recall
11 learning that MTBE, when released to
12 ground water, was more mobile and
13 traveled faster than the BTEX chemicals?
14 A. I recall that was stated by
15 some individuals, agencies, whatever. I
16 don't recall that being documented.
17 Q. Sir, do you recall, as you
18 sit here today, any member companies of
19 OFA informing you of the fact that once
20 MTBE was released into ground water, that
21 it would travel faster and further than
22 the BTEX chemicals of gasoline?
23 A. No, I don't recall that.
24 I recall, as indicated,

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1 discussions about MTBE and differential
2 solubility, but not that specifically.
3 No.
4 Q. Okay.
5 Sir, as you sit here today,
6 do you recall any of the member companies
7 of OFA informing you that MTBE was much
8 more resistant to biodegradation than
9 let's say the BTEX chemicals?
10 A. No, I don't recall any
11 discussions about biodegradation per se.
12 Q. Sir, do you recall a time
13 back in the mid 1980's when the EPA
14 designated MTBE under TSCA?
15 A. Yes. I do.
16 Q. What did it mean when the
17 EPA placed that designation under TSCA on
18 a chemical?
19 A. It meant that it was going
20 to be considered by the agency for
21 potential testing.
22 Q. What type of testing?
23 A. I don't think that was at
24 that time specified. I think it was to

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1 be determined subsequently.
2 Q. Sir, do you recall MTBE
3 being designated by EPA under TSCA?
4 A. Yes.
5 Q. Do you recall approximately
6 when that was?
7 A. No. It would have been in
8 the '80s, but I don't recall the precise
9 date.

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10 Q. Okay. Do you recall at that
11 time in the mid 1980's, after EPA
12 designated MTBE under TSCA, that you were
13 involved in the formation of what has
14 become known as the MTBE Committee?

15 A. Yes.

16 Q. Sir, do you recall when you
17 began representing the industry as the
18 executive director of the MTBE Committee
19 in communications with the EPA?

20 MR. THALER: Let me just
21 object to the words the industry.
22 It's ambiguous.

23 Go ahead. You can answer.

24 THE WITNESS: Approximately
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1 1986, I believe, was when the task
2 force was created. I don't recall
3 the exact date.

4 BY MR. SUMMY:

5 Q. Okay. Prior to the
6 formation of the MTBE Committee --

7 A. Yes.

8 Q. -- had you been monitoring
9 communications by members of the OFA to
10 the EPA regarding MTBE's designation
11 under TSCA?

12 A. No.

13 Q. When was the first time that
14 you became aware that MTBE had been
15 designated under TSCA?

16 A. I don't recall the exact
17 date. It was, as I said, mid '80s.

18 Q. Whose idea was it to form
19 the MTBE Committee to deal with the EPA
20 on the TSCA issue?

21 A. Members of OFA.

22 Q. How did they inform you of
23 their decision to discuss formulating the
24 MTBE Committee?

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1 A. I don't recall specifically.

2 Q. Prior to the formation of
3 the MTBE Committee but after you had
4 learned that there was a desire to
5 discuss formulating that group, did you
6 begin monitoring the situation with the
7 EPA and MTBE under TSCA?

8 A. Monitoring to the extent of
9 looking at the regulations and the
10 proposed regulations, yes.

11 Q. Okay.

12 - - -

13 (Whereupon, Exhibits
14 Dominguez 1 and 2 were marked for
15 identification.)

16 - - -

17 MR. SUMMY: I'm going to
18 hand the witness what has been
19 marked as Deposition Exhibit
20 Number 1 which is nothing more

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6 answer, I believe, would be based
7 on the decision of the Oxygenated
8 Fuels Association to undertake
9 representation for MTBE. So it
10 would have been the decision of
11 the OFA.

12 BY MR. SUMMY:

13 Q. Okay. At the time that the
14 OFA made the decision to oversee the
15 representation of MTBE with the EPA, was
16 the MTBE Committee formulated at that
17 time?

18 A. No. I think it was as a
19 result of that.

20 Q. Okay. Who at the OFA made
21 the decision to oversee the
22 communications with the EPA related MTBE?

23 A. The OFA management
24 committee, steering committee, whatever

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1 its proper term was at the time.

2 Q. Would that have been
3 comprised of members of the OFA?

4 A. Yes.

5 Q. Do you recall who the
6 members of the OFA were that made the
7 decision for the OFA to oversee
8 communications with the EPA related to
9 MTBE?

10 A. No, I do not recall all of
11 them.

12 Q. Do you recall some of them?

13 A. Celanese Corporation. ARCO.
14 Sun. I believe Snamprogetti, but I'm not
15 sure if they were involved or if they
16 joined later. Mobil. Texaco. Those are
17 the only ones I remember.

18 Q. Do you recall Exxon?

19 A. Now that you mention them,
20 yes.

21 Q. Do you recall Phillips?

22 A. No.

23 Q. Okay. So the decision was
24 made for you to become involved in

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1 communications with the EPA prior to the
2 formal MTBE Committee being put together;
3 correct?

4 A. No. I think it was the MTBE
5 Committee that was formed and then the
6 decision was that as the staff member of
7 OFA, I should be the staff member of
8 MTBE.

9 Q. Okay. So, it's your
10 testimony that the MTBE Committee would
11 have been formulated prior to you showing
12 up, for example, at a public meeting
13 related to MTBE with the EPA which is
14 outlined in Exhibit 2; correct?

15 A. I don't follow that
16 question.

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17 Q. Well, if you take a look at
18 Exhibit 2.
19 A. Okay.
20 Q. The title is Minutes for the
21 Public Focus Meeting for MTBE December
22 17th, 1986; correct?
23 A. Yes.
24 Q. And if you take a look at
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1 about the third page, you'll see a
2 sign-in sheet?
3 A. Right.
4 Q. And I believe if you look at
5 the third name down, that is you;
6 correct?
7 A. Mm-hmm.
8 Q. And your company affiliation
9 as it's still filled out on the form is
10 OFA; correct?
11 A. Yes.
12 Q. Prior to you having shown up
13 at this meeting, would the MTBE Committee
14 already have been formulated?
15 A. Oh, I don't believe so.
16 Q. Okay. That is what I was
17 trying to get at.
18 So initially you began
19 showing up at the meetings with the EPA
20 in your capacity with OFA?
21 A. Yes.
22 Q. Okay. Now, if you take a
23 look at the minutes and you take a look
24 at the first paragraph on Deposition
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1 Exhibit Number 2, and if you look at
2 the --
3 A. Is that the deposition?
4 MR. THALER: No, this one.
5 BY MR. SUMMY:
6 Q. That one right there. And
7 if you take a look at the last two
8 sentences of the first paragraph, it
9 begins "an additional concern?"
10 A. Mm-hmm. Yes.
11 Q. It says, An additional
12 concern brought out by TRDB research was
13 the contamination of ground water
14 supplies by MTBE. There are over 700,000
15 underground storage tanks for petroleum
16 products in the US and about 30 percent
17 of these tanks leak.
18 Do you see that entry?
19 A. Yes.
20 Q. Now, you were at this
21 meeting of December 17th, 1986; correct?
22 A. Yes.
23 Q. And at this meeting, the EPA
24 brought out an additional concern over
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1 MTBE's contamination of ground water;